



Appeal Decision Notice

Decision by Trevor A Croft, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2281
- Site address: Inverallan Church, Grant Road, Grantown-on-Spey, PH26 3JH
- Appeal by Barry Edmundson against the decision by Highland Council to grant planning permission reference 21/044869/FUL dated 10 October 2022 subject to conditions.
- The development proposed: Alterations to church to create flexible sanctuary for worship and use as a concert/performance venue, including associated meeting rooms and activity spaces, toilets, stairs and lift, provision of social enterprise cafe, alterations to window to create new door and side screens with terrace access
- The condition appealed against is: 6. No photovoltaic panels shall be installed on the Category B Listed Building as part of this permission. Reason: In order to preserve the character and appearance of the Grantown on Spey Conservation Area, and to protect the special architectural and historic interest of the Category B Listed Building.
- Date of site visit by Reporter: 9 February 2022

Date of appeal decision: 3 April 2023

Decision

I dismiss the appeal and refuse to vary the terms of the planning permission.

Background

Planning permission reference 21/04869/FUL was granted on 10 October 2022. This permission was for alterations to the church, primarily internal, as set out above. Conditions 1 – 5 are to control this development and are not at issue. Condition 6 relates to a further part of the proposal which is to install photovoltaic panels on the roof. The condition specifically refuses permission for these on grounds relating to the character and appearance of the Grantown on Spey Conservation Area and to protect the special architectural and historic interest of the category B listed building.

An associated appeal LBA-270-2013 against the imposition of a similar condition on the grant of listed building consent reference 21/04872/LBC has been dealt with in a separate notice.

Reasoning

Condition 6

1. The key determining issue in this appeal is whether condition 6 meets the six tests in Circular 4/1998 The Use of Conditions in Planning Permissions. These are: necessity, relevance to planning, relevance to the development permitted, enforceability, precision and reasonableness in all other respects. I also have a duty imposed by section 59 of the Listed Buildings and Conservation Areas(Scotland) Act 1997 to have special regard to the

desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. As the site lies within the Grantown-on-Spey Conservation Area I have a duty imposed by section 64(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. I also consider relevant development plan policies.

2. In this case I find condition 6 clearly meets the tests of relevance to planning and the development permitted, enforceability and precision. This leaves the issues of necessity and reasonableness.

3. The church occupies a prominent location at the head of Church Avenue, which leads south-east from the church itself towards the centre of Grantown. Grant Road and Mossie Road form a continuous road that runs from south-west to north-east across the front of the church, with the name changing at this point – Grant Road to the south-west and Mossie Road to the north-east. The church is of sandstone construction under steeply pitched slated roofs.

4. In plan form the church is in the form of a cross, with the longer arm extending north-west – south-east towards Church Avenue. It terminates at the south-east end in a prominent gable which dominates the appearance of the building when seen from the Avenue. This gable is also the principal entrance to the church, with twin doors sitting within a gothic arch containing inscriptions about the erection of the building in 1884. Above the arch is a window with fine tracery that extends nearly to the point of the gable. The roof itself cannot be seen from the Avenue as it is visually behind the gable.

5. The proposed photovoltaic panels would be located on the south-west side of the roof of this part of the church. It is dominant in views of the church from this direction, primarily from Grant Road. As there would be 45 panels they would take up the great majority of the roof's surface leaving small areas of slate around them. This is shown particularly well on drawing 105 A Elevations as submitted with the original application.

6. The appellant argues that the roof would only be seen from about 20 metres along Grant Road until the front of the building is reached and it is effectively hidden by the gable. It adds that there are numerous examples with the conservation area where panels have been allowed and that in this case modern low profile units would be used, being built into the structure rather than being mounted on top. It is argued that other solutions put forward by the council and Historic Enterprise Scotland would not provide enough energy to support the running of the building but no evidence has been provided to support this.

7. The appellant also notes that Historic Environment Scotland has not objected to the proposal but this is now standard practice for category B and C listed buildings. It states however that its decision not to object should not be taken as support of the proposal. It adds that the south-east and south-west elevations are the most prominent parts of the building and that the solar panels would have an adverse impact on the special architectural interest of the building.

8. This view is supported in the council's report of handling, which states that the location of this installation is not considered to be acceptable with regard to the built fabric of the church and its position within the conservation area. It confirms the suggestion that alternative locations should be examined, noting that the appellant was unwilling to amend this part of the proposal.

9. Drawing all these points together I am satisfied that the proposed panels would be harmful to the special architectural features of the building. The section 59 test is not therefore met.

10. With regard to the appearance of this part of the conservation area this derives largely from older properties, many stone built under slated roofs dating back to the Victorian era around the time the church was constructed. More modern buildings are screened by significant tree cover which gives the area a somewhat sylvan charm. Its character is of a well-established residential area in which the many older buildings contribute to this charm. Set against these qualities I consider the installation of the proposed panels would be damaging to the appearance of this part of the area and thus have an adverse impact on its character. The section 64(1) test is not therefore met.

11. I therefore find that that condition six meets the test of necessity. I also find that it is reasonable in all other respects and that all the six tests are therefore met.

Development plan considerations

12. Since the appeal was made the Scottish Ministers have adopted National Planning Framework 4 as part of the development plan. At the same time Scottish Planning Policy became obsolete. I therefore sought parties views on the relevance of the framework's policies to the appeal.

13. There is common ground that policies 1, Tackling the Nature and Climate Crisis and 2, Climate Mitigation and Adaption are strongly supportive of the installation of the panels, which would undoubtedly make a contribution towards reducing fossil fuel energy use. I agree with this assessment and consider the overall thrust of the framework very much in line with this aim. In particular policy 11 Energy supports all forms of renewable, low carbon and zero emission technology. As such the proposal can draw strong support from the framework.

14. Both parties acknowledge the importance of policy 7 Historic Assets and Places but have different interpretations of its support. The council notes that 7(a) requires an assessment to identify the likely visual or physical impact of any proposal. It accepts that as the original application predates the adoption of the framework this was not provided and that consideration should be given to requiring one as part of the appeal. I accept the council's concern in this regard but consider my own assessment, as set out above, is sufficient to enable me to determine the appeal without requiring further work on the part of the appellant as far as visual impact is concerned.

15. The council notes that policy 7(c) states specifically that development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. The appellant claims that its proposal does not affect its special architectural or historic interest, but in view of my findings above I am unable to accept this view. Parts 7(d) and (e) refer to conservation areas, which I have considered above and found that it would not be preserved or enhanced.

16. Policies 25 Community Wealth Building and 29 Rural Development are referred to respectively by the appellant and the council. Both are open to interpretation about issues that concern a balance between community development and historic assets.

17. The council has pointed to the Cairngorms National Park Local Development Plan 2021 policy 7 Renewable Energy and 9 Cultural heritage. Policy 7 is strongly supportive of renewable energy generation but only where proposals adequately minimise all cumulative effects. I do not consider that has been achieved in this case. Policy 9 seeks to ensure that new development conserves and enhances the cultural heritage of the Cairngorms National Park, within which Grantown is located, and states that development should have no adverse effect on a listed building, which is not the case with the appeal proposal.

18. The appellant points to other historic buildings where panels have been installed and to other councils that have relaxed rules on solar panels. Circumstances elsewhere are rarely the same and each case should be judged on its own merits. Precedent is not a justification for allowing panels in this case. Matters relating to a change of policy should be raised when the next local development plan is being prepared.

19. Overall I find a very fine balance in both parts of the development plan between support for a community project and the harm which could be brought about to the character, and special architectural or historic interest of the building. This also reflects section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as referred to above.

20. Drawing all these matters together I refer to my findings above that the proposed panels would be harmful to the special architectural features of the building. Whilst there is strong policy support for the proposal, I am not satisfied that I have clear evidence that every effort has been made to consider and assess alternative solutions to the problem, as suggested by Historic Enterprise Scotland. The appellant has permission to proceed with the main parts of the redevelopment proposals and whilst saying that these would not be viable without the panels I do not have sufficient evidence to support this. Further consideration of the panel proposals in discussion with the council would enable a further assessment to take place.

Other matters

21. Representations were received from two members of the public living in the locality. The main concerns expressed not already dealt with were traffic and parking in the vicinity of the church, causing inconvenience to local residents. This is not a matter that concerns the principle subject of this appeal and was dealt with by the council when the original planning permission was granted.

22. The Architectural Heritage Society of Scotland made comments on the structural proposals concerning new doors but this again does not concern the appeal proposals. No reference was made to the panels in its submission but this does not affect my conclusion.

Overall conclusion

23. Taking everything into account I am not satisfied that a sufficient case has been made out to justify the deletion of condition 6 of the planning permission. I have referred above at paragraph 20 to a way forward but at present the evidence supports my dismissing the appeal.

24. I have considered all other matters raised but found none that justifies a different decision.

Trevor A Croft

Reporter